

**IN THE UNITED STATES DISTRICT COURT  
IN AND FOR THE DISTRICT OF DELAWARE**

KATHRYN L. FITZGIBBON, \*  
LAUREN M. FLEMING, and \*  
ALL SIMILARLY SITUATED CURRENT \*  
AND FORMER EMPLOYEES OF \*  
ING BANK, fsb, AND ITS WHOLLY \*  
OWNED SUBSIDIARIES, \*  
Plaintiffs, \*

C.A. NO. 07-735 (JJF)

v. \*

ING BANK, fsb, (a Delaware corporation), \*  
and ALL OTHER WHOLLY OWNED \*  
SUBSIDIARIES OF ING BANK, fsb, \*  
WHICH HAVE EMPLOYED \*  
SIMILARLY SITUATED CURRENT \*  
AND FORMER EMPLOYEES SINCE \*  
November 15, 2004, \*

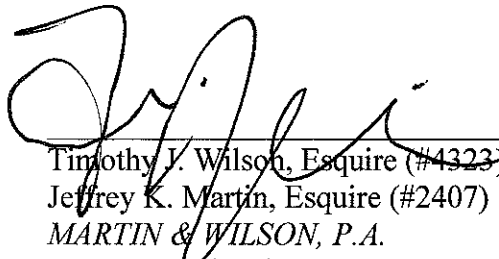
JURY TRIAL DEMANDED

Defendants. \*

**PLAINTIFFS' MOTION TO DISMISS DEFENDANT'S COUNTERCLAIMS  
AND MOTION FOR JUDGMENT ON THE PLEADINGS**

Plaintiffs, by and through their undersigned counsel, respectfully move to have Defendant's Counterclaims dismissed in their entirety and for judgment on the pleadings in the above-captioned case. The grounds for these motions are set forth in Plaintiffs' Opening Brief in Support of Their Motion to Dismiss Defendant's Counterclaims and Motion for Judgment on the Pleadings, which is filed separately.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'T. Wilson', is written over a horizontal line.

Timothy J. Wilson, Esquire (#4323)

Jeffrey K. Martin, Esquire (#2407)

*MARTIN & WILSON, P.A.*

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*Attorneys for Plaintiffs*

Dated: January 9, 2008

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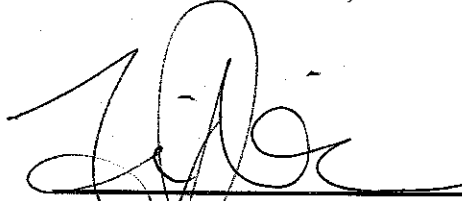
Defendants. \*

**CERTIFICATE OF SERVICE**

I, Timothy J. Wilson, the undersigned counsel for Plaintiff in the above-captioned case, hereby certify that the foregoing *Plaintiff's Motion to Dismiss Defendant's Counterclaims and Motion for Judgment on the Pleadings* was filed via CM/EMF on January 9, 2008 to the following:

Darryl A. Parson, Esquire  
Drinker Biddle & Reath LLP  
1100 N. Market Street  
Wilmington, DE 19801-1254

MARTIN & WILSON, P.A.

A handwritten signature in black ink, appearing to read 'T. Wilson', is written over a horizontal line.

TIMOTHY J. WILSON, ESQUIRE

DE Bar I.D. No.: 4323

1508 Pennsylvania Ave

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*Attorney for Plaintiffs*

DATED: January 9, 2008

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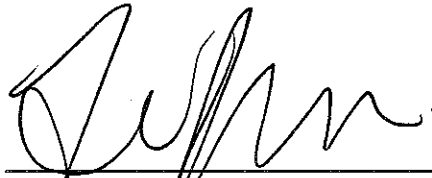
JURY TRIAL DEMANDED

**NOTICE OF MOTION TO DISMISS DEFENDANT'S COUNTERCLAIMS AND  
MOTION FOR JUDGMENT ON THE PLEADINGS**

TO: Darryl A. Parson, Esquire  
Drinker Biddle & Reath LLP  
1100 N Market St  
Wilmington, DE 19801-1254

PLEASE TAKE NOTICE, that the undersigned attorney will present the attached  
Motion to Dismiss Defendant's Counterclaims and Motion for Judgment on the Pleadings  
at the convenience of the Court.

**MARTIN & WILSON, P.A.**

A handwritten signature in black ink, appearing to read 'Timothy J. Wilson', written over a horizontal line.

**TIMOTHY J. WILSON, ESQUIRE**

Del. Bar I.D./No.: 4323

1508 Pennsylvania Ave

Wilmington, DE 19806

twilson@martinandwilson.com

(302) 777-4681

*Attorney for Plaintiffs*

DATED: January 9, 2008

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JURY TRIAL DEMANDED

Defendants. \*

**ORDER**

Upon consideration of the Plaintiffs' Motion to Dismiss Defendant's Counterclaims and Motion for Judgment on the Pleadings, as well as the responses thereto, this \_\_\_\_\_ day of \_\_\_\_\_, 2008, it is hereby,

ORDERED, that Plaintiffs' Motion to Dismiss is GRANTED, Plaintiff's Motion for Judgment on the Pleadings is GRANTED and Defendant is ordered to perform its obligations as set forth in the Severance Agreements.

\_\_\_\_\_  
J.